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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,422	09/23/2003	Steve Brnjac	062349-0001	1089
33797	7590	09/22/2004	EXAMINER	
MILLER THOMPSON, LLP 20 QUEEN STREET WEST, SUITE 2500 TORONTO, ON M5H 3S1 CANADA			WUJCIAK, ALFRED J	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	S1
	10/667,422	BRNJAC, STEVE	
	Examiner	Art Unit	
	Alfred Joseph Wujciak III	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 23 September 2003.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 and 9-18 is/are rejected.
- 7) Claim(s) 5-8 and 19-20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This is the first Office Action for the serial number 10/667,422, RETRACTABLE HOOK ASSEMBLY FOR MOUNTING ON A SURFACE, filed on 9/23/03.

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hook shaped must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

~~Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.~~

Claim 13, lines 1-2, "said surface" is indefinite because it cites combination/subcombination problem. "Surface" is not positively cited in the preamble of claim 1.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9-10 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 3,941,250 to Ott.

Ott teaches a hook assembly (figure 2) comprising a bracket member (11) having front side with a retracting groove (23) and a least one positioning channel (20) and a back side. The hook assembly includes a hook member (12) having a proximal end and a distal end. The proximal end having at least one projection (35) adapted to engage the positioning channel when the hook member is in an extended position. The front side of the bracket member is adapted to receive the hook member into the retracting groove when in a retracted position. The positioning channel has a top side (located above of element 22) and a bottom side (located below of element 22) providing a cam surface. The projection is a cam whereby the cam engages the top side or cam surface of the positioning channel when the hook member is in the extended position and the cam engages the bottom side or cam surface when the hook member is in the retracted position. The retracting groove has two sides (13 and 14) and has two positioning channels located on either side of the retracting groove (figure 5). The hook member is an arm having two sides, a front side and back side, and has two cams on either side of the arm to engage the two positioning channels. Wherein the distal end of the arm is adapted to receive a user's finger thereby allowing the user to extend the arm into the extended position (col. 4, lines 19-21). The distal end of the arm has a pull tab (38) shaped to accommodate the user's finger. The hook assembly is manufactured from plastic (col. 3, lines 36-38 and col. 4, lines 3-4). The surface is a wall (col. 2, lines 60-61).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ott.

Ott teaches the front side of the bracket member and the front side of the arm but fails to teach the front side of the bracket member and arm having graphic. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added graphic to Ott's front side of the bracket member and front side of the arm to provide an improvement in ornament appearance of the hook assembly and to blend with the color or decoration of a wall in building.

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Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ott in view of US Patent # 2,706,049 to Andrews.

Ott teaches the distal end of the arm but fails to teach the distal end of the arm is hook shaped. Andrews teaches the distal end of the arm (16) is hook shaped. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Ott's distal end with hook shaped as taught by Andrews to provide an ornament appearance of the hook assembly.

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ott in view of US Patent Application Publication # 2004/0104325 to Ay.

Ott teaches a hook assembly (figure 2) comprising a bracket member (11) having front side with a retracting groove (23) and a least one positioning channel (20) and a back side. The hook assembly includes a hook member (12) having a proximal end and a distal end. The proximal end having at least one projection (35) adapted to engage the positioning channel when the hook member is in an extended position. The front side of the bracket member is adapted to receive the hook member into the retracting groove when in a retracted position. The positioning channel has a top side (located above of element 22) and a bottom side (located below of element 22) providing a cam surface. The projection is a cam whereby the cam engages the top side or cam surface of the positioning channel when the hook member is in the extended position and the cam engages the bottom side or cam surface when the hook member is in the retracted position. The retracting groove has two sides (13 and 14) and has two positioning channels located on either side of the retracting groove (figure 5). The hook member is an arm having two sides, a front side and back side, and has two cams on either side of the arm to engage the two positioning channels. Wherein the distal end of the arm is adapted to receive a user's finger thereby allowing the user to extend the arm into the extended position (col. 4, lines 19-21). The distal end of the arm has a pull tab (38) shaped to accommodate the user's finger. The hook assembly is manufactured from plastic (col. 3, lines 36-38 and col. 4, lines 3-4). The surface is a wall (col. 2, lines 60-61).

Ott teaches the hook member and retracting groove but fails to teach more than one hook member and retracting groove. Ay teaches plurality of hook members and retracting grooves (figure 14). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added additional hook member and retracting groove to Ott's hook

assembly as taught by Ay to provide additional storage for supporting a plurality of object thereon.

***Allowable Subject Matter***

Claims 5-8 and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach wherein the cams engage the top sides of the positioning channels allowing the arm to extend a maximum of 45 degree.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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US Patent # 4,221,354 to Kempkers

US Patent # 2,500,881 to Stader

US Patent # 2003/0141423 to Gordon

US Patent # 1,461,938 to Rose

US Patent # 6,663,067 to Gordon

US Patent # 2,071,257 to Hansen

US Patent # 4,787,590 to Melvin

US Patent # 6,109,579 to Huang

US Patent # 2,077,629 to Lahr

US Patent # 2,602,622 to Smith

US Patent # 6,698,695 to Spoto

Kempkers, Stader, Gordon, Rose, Hansen, Melvin, Huang, Lahr, Smith and Spoto teach folding/retractable hook assembly having bracket and arm.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (703) 306-5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703 308 2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III  
Examiner  
Art Unit 3632 

9/9/04